

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Joseph Davis,)	C/A No. 3:09-1810-JFA-JRM
)	
Petitioner,)	
v.)	ORDER
)	
Wayne McCabe, Warden, WRPC,)	
)	
Respondent.)	
_____)	

Petitioner Joseph Davis, a state prisoner proceeding without assistance of counsel, seeks habeas corpus relief under 28 U.S.C. § 2241. The petitioner contends that he was not given credit for time served during his incarceration.

As an initial matter, this court notes that on February 24, 2009, the petitioner filed a civil rights action in this court pursuant to 42 U.S.C. Section 1983 contending that he was unlawfully denied credit for time spent in pretrial confinement. At the time he filed this action, the petitioner was an inmate at the SCDC's pre-release center awaiting discharge upon the completion of his sentence. It also appears from the record in the present case that the plaintiff maxed out his sentence on July 31, 2009 and was released from custody.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

Recommendation and opines that the respondent's motion for summary judgment² should be granted. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

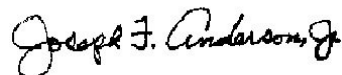
The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on March 12, 2010. Petitioner did not file any objections to the Report.

As the Magistrate Judge correctly concludes that petitioner's claim for habeas relief is moot since he has maxed out his sentence and is apparently not subject to any collateral consequences. *Lane v. Williams*, 455 U.S. 624 (1982). Further, the petitioner did not fully exhaust his state court remedies.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper and incorporates the Report herein by reference. The respondent's motion for summary judgment is hereby granted.

IT IS SO ORDERED.

April 12, 2010
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

² An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying petitioner of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Petitioner responded to the motion.